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BOOK REVIEWS.

FEDERAL POWER TO PROHIBIT TRANSIT BETWEEN THE STATES. By Carman F. Randolph. Printed for private distribution.

Everybody seems busy now-a-days ploughing new furrows over the field of Constitutional powers. It is a relief to find a writer applying himself to the more conservative task of removing the tangle of weeds and brush that conceal the old pathways which were early traced throughout that domain.

In a pamphlet treating exhaustively of the federal control over railways, and its relations to State corporations, to "combinations" as distinguished from individuals, and other kindred questions, Mr. CARMAN F. RANDOLPH has presented a succinct and significant statement of the federal power of obstruction and prohibition of intercourse and traffic between the States, as distinguished from the functions of regulating and protecting that commerce, which was allotted to the general government under the Constitution. The commerce clause is brief: "Congress shall have power . . . to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." So far as this delegation of power had reference to commerce among the several States, it gave to the central authority ample opportunity to prevent obstructive or oppressive action by the States upon commerce or intercourse with sister States, but there is no justification for the claim which has gradually reached maturity, that the power to hinder which was thus paralyzed in the States was kept alive, enlarged and transferred to the General Government.

When we consider, as the author points out, that "the movement of any person, thing or communication from one State to another is interstate commerce; a man crossing a bridge; a flock of sheep driven across a State; gas passing through an interstate pipe line; a telegraph message, are all included in the definition of intercourse," it will readily be seen that the protection of the federal government against State interference with all these things is startlingly different from the subjection of the citizen to federal prohibition in the doing of these things.

Regulation of interstate traffic or transit is meant to facilitate it, by promoting its security and efficiency, and does not imply the right to obstruct it; the delegation of a power to regulate cannot be meant to involve its destruction. The solicitude of the people entering into the Union was to prevent interference and to promote free intercourse; to this end the power of each State to forbid or hamper intercourse with other States was extinguished and Chief Justice MARSHALL could correctly say "In all commercial relations we are one and the same people"¹ and Chief Justice TANEY could say "We are all citizens of the United States and as members of the same com-

¹ Cohens v. Virginia (1821) 6 Wheat. 413.

munity have the right to pass and repass through every part of it without interruption as freely as in our own State," and Justice MILLER repeats the statement.¹ The whole question is fully treated, the analogy drawn from the federal power to prohibit foreign trade or trade with Indian tribes is examined and its falsity shown from its very extravagance, for, whereas it has been held that "from the beginning Congress has exercised as plenary power in respect to the exclusion of merchandise brought from foreign countries,"² no such doctrine has ever found judicial sanction with reference to interstate commerce.

It is to be regretted that this timely and interesting study of present-day problems should be only in the form of an opinion for clients and not in a publication accessible to the general public. P. F.

LABOR LAWS AND DECISIONS OF THE STATE OF NEW YORK. J. A. Cipperly. Albany, Banks & Company. 1904. pp. vii, 143.

Owing to the confused mass of statutes which a practicing lawyer is compelled to face in the preparation of his cases, a compilation of the laws relating to a given subject is always welcome, particularly if well annotated. The author of this pamphlet has evidently aimed to fill a want in this respect in regard to the subject of labor in New York State. The work is divided into two parts: Part 1st being entitled "Laws in Relation to Labor," and Part 2nd, "Labor Decisions Summarized." Part 1st includes the Labor Law of New York as amended to 1904, the sections of the Penal and Civil Codes relative to labor, and certain specific chapters of the laws of various years involving the relation of employer and employee. In Part 2nd, with the addendum covering the latest cases, the author claims to include all decisions to date (December, 1904).

The work as a whole is hardly satisfactory. The only value of a book of this kind is to make access to authority easy to those who desire to know how the law on a given subject stands. Part 1st could have been improved by the insertion of cross-references between the Labor Law and the Penal Code where a penalty is provided for violation of the Labor Law, and Part 2nd is almost useless on account of the manner in which the summaries of the cases are given. It reads as though a small part of the headnote of each case was copied verbatim from the report, without the statement of facts being given in a single instance, so that the reader is at a loss to know whether what he is reading is decision or mere obiter dicta. There would seem to be very little value in a work of this sort, unless some attempt at least is made to analyze the cases. Nor can the general arrangement be commended. It would have been more convenient to have the discussion of cases referring to the particular laws in the form of a footnote to the law itself, and not in a separate part of the book, while the decisions not interpreting a law could have been dealt with separately. The index seems complete as far as it covers the laws, but there is no index of the subjects discussed in the decisions. In short, though the author's object in writing the pamphlet is most

¹ Passenger Cases, 7 How. 492; *Crandall v. Nevada*, 6 Wall. 49.

² *Buttfield v. Stranahan* (1903) 192 U. S. 492.